IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

TUESDAY, THE 4TH SEPTEMBER 2007 / 13TH BHADRA 1929

WP(C).No. 13099 of 2007(H)

PETITIONER:

BABY.T.PUNNOOSE,
THURUTHIPALLIL HOUSE, P.O.PAKKIL,
KOTTAYAM-12.

BY ADV. SRI.P.VIJAYAKUMAR
SRI.S.VAIDYANATHAN

RESPONDENTS:
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1. THE LAND REVENUE COMMISSIONER
THIRUVANANTHAPURAM.

2. THE ACCOUNTANT GENERAL,
THIRUVANANTHAPURAM.

3. THE DISTRICT COLLECTOR,
KOTTAYAM.

4. THE SUB TREASURY OFFICER,
KOTTAYAM.

ADDL. 5TH RESPONDENT IMPLEADED

5. STATE OF KERALA REPRESENTED BY SECRETARY,
REVENUE DEPARTMENT (D), GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM
(ADDL. 5TH RESPONDENT IMPLEADED AS PER ORDER IN I.A. NO. 11581/2007 DATED 04.09.2007.)

BY ADV. SRI. NANDAKUMAR, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1(A) to P1(D): TRUE COPIES OF THE DIFFERENT ORDER DATED 28.06.2002, 07.10.2002, 06.06.2003 & 25.01.2004 ISSUED BY THE 2ND RESPONDENT.

EXT.P2: TRUE COPY OF THE GIST OF OBJECTIONS.

EXT.P3: TRUE COPY OF THE REPRESENTATION DATED 19.07.2003 BEFORE RESPONDENTS 1 & 2.

EXT.P4: TRUE COPY OF THE REMINDER DATED 15.03.2007 BEFORE RESPONDENTS 1 & 2.

EXT.P5: TRUE COPY OF THE JUDGMENT DATED 31.10.2205 IN O.P. 10179/01 BEFORE HONOURABLE HIGH COURT OF KERALA.

EXT.P6 & P(A): TRUE COPY OF THE SHOW CAUSE NOTICE WITH THE ANNEXED SCHEDULE.

EXT.P7: TRUE COPY OF THE REPLY LETTER DATED 10.08.2007.

/True Copy/

P.A to Judge.

V. GIRI , J

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W.P.(C) NO. 13099 OF 2007

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Dated this the 4th day of September, 2007.

JUDGMENT

The petitioner, who retired from service as Deputy Collector on 31.10.2001, is aggrieved by the non disbursement of the retirement benefits which was due to him. He refers to Ext.P1 series pointing out the orders wherein the pension and DCRG have been found admissible. Apparently, certain objections were raised against the disbursal of retirement benefits. The petitioner, on the premise that the information available have not been received so far, preferred Ext.P3 objections. There was no finalisation of the liability and even now the DCRG has not been disbursed to the petitioner, but pension is being paid to him.

2. Exts.P6 and P6(a) are show cause notices issued to the petitioner, subsequent to the filing of the writ petition, invoking Rule 59(b) Part III of the K.S.R, proposing reduction of the pension. The petitioner has filed objections Ext.P7 to the same. Final orders have to be passed in pursuance of Ext.P6, in terms of Rules 59(1) Part III of the K.S.R.

3. Ext.P6(A) indicates that there is a liability to the tune of Rs.1,30,945, claimed by the department from the petitioner. Ext.P1

(A) would show DCRG admissible to the petitioner has been computed at Rs.2,12,985/-. Even if the amount indicated as liability in Ext.P6(D) is taken, obviously the entire amount which is admitted as DCRG in Ext.P1(D) will not be necessary to absorb the same.

4. There is also a question as to whether the liability, in so far as it relates to recovery from the DCRG, found admissible, can be finalised and recovery effected. I am not expressing any opinion at this stage.

5. Heard the learned counsel appearing for the petitioner and the learned Government Pleader. The writ petition is being disposed of in the following terms:

i. the proceedings initiated under Section 59(b) Part III of the K.S.R for reduction from the pension in pursuance of Ext.P6 shall be finalised within a period of three months from the date of receipt of a copy of this judgment.

ii. the Government shall consider the objections filed by the petitioner- Ext.P7 and also afford an opportunity of being heard to the petitioner and due orders be passed as indicated above.

iii. the amount being the difference between DCRG found admissible as per Ext.P1(A) and the amount indicated as liability in Ext.P6(A) shall be disbursed to the petitioner within a period of one month from today.

6. The balance amount payable by way of DCRG shall be paid after orders are passed as directed in Part (i) above. All objections available to the petitioner, as regards the fixation of the liability, including objection as to whether the fixation of the liability has been effected within the time frame indicated in Rule 3 of the Part III KSR, are available to the petitioner and such objections shall be looked into by the government while passing orders. The petitioner has a claim for interest on belated payments. In the nature of directions issued, I do not propose to consider the same and at this stage, it is left open.

The writ petition is disposed of on the above conditions.

V. GIRI, JUDGE.

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